

REMARKS

The Examiner's comments together with the cited references have been carefully studied. Favorable reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-38 are pending in the application. Claims 16-20 and 22-38 have been withdrawn from consideration. Claims 1-15 and 21 have been rejected and are presently active. Favorable reconsideration of the application in view of the following remarks is respectfully requested

Restriction to one of the following inventions was required under 35 U.S.C. §121: Group I: Claims 1-35, drawn to a recording element, classified in class 428, subclass 32.32; and Group II: Claims 36-38, drawn to a printing process, classified in class 347, subclass 105.

Applicants herewith confirm the election of the claims of Group I, Claims 1-15 and 21, with traverse.

Applicants herewith file a terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome a provisional double patenting rejection based on a nonstatutory double patenting ground.

Claims 1-15 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Laney et al. or Campbell et al. each in view of Morita et al. It is the conclusion of the Examiner that "...it would have been obvious to one of ordinary skill in the art to include limited amounts of similar properties in order to enhance the properties of the material" and "It would have been obvious to one of ordinary skill in the art to use the material of Morita et al. as the permeable upper layer of the imaging supports of the primary references when a biodegradable layer is desired."

Laney et al. and Campbell et al. disclose an open cell polyester and open cell polyester coated with a porous ink-receiving layer. The term "open cell" refers to interconnecting voids. In contrast, Morita et al. disclose a porous polylactic acid material that is not open cell. Experimentation has shown that the films described and made in the examples of Morita et al. would not result in an open cell media. Creating open cells in a polylactic acid media is not obvious and is a key to the invention presently claimed.

Morita et al. disclose a porous film that can be used for paper diapers and packaging materials. Clearly, it may be desirable that films for such uses be capable of absorbing water or other fluids, by being porous, but it would not be desirable that films for such uses to promote the passage (by capillary action through interconnected voids) of water or other fluids through the film, in which case the film would not be an open cell film have interconnecting voids. Morita et al. do not remotely suggest or teach that their film can be used in an inkjet recording element. Similarly, Laney et al. and Campbell et al. do not remotely teach or suggest that a polylactic acid material could be made into a porous layer having interconnecting voids for use in an inkjet recording element. Moreover, Laney et al. and Campbell et al. clearly do not teach or enable such an inkjet recording element. Polylactic-acid is uniquely different than the very commonly used polyterephthalic acid in terms of properties and manufacturability, and neither Laney et al., Campbell et al., nor Morita et al. suggest that the properties or manufacture of these very different materials are in any way significantly similar.

In view thereof, it follows that the subject matter of the claims would not have been obvious over Laney et al. or Campbell et al. each in view of Morita et al. at the time the invention was made.

In view of the foregoing remarks and amendment, the claims are believed allowable and such favorable action is courteously solicited.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

Respectfully submitted,



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